Restoration App. No. 10697 of 2006
IN
A.O. No. 1607 of 2001
(Old No. 867 of 1999)

Hon. Prafulla C. Pant, J.

Heard.

This is application (No. 10697 of 2006) for recalling the order dated 28.07.2006, passed by this Court whereby the delay condonation application, moved by the appellant was dismissed in default of the appellant.

Considering the averment made in the affidavit accompanying the application, the application No. 10697 of 2006 is allowed. The order dated 28.07.2006 is recalled.

Heard on admission.

This appeal has been preferred under Section 30 of Workmen Compensation Act, 1923. However, third proviso of Section 30, requires that "*No appeal by an employer under clause (a) shall lie unless the memorandum of appeal is accompanied by a certificate by the Commissioner to the effect that the appellant has deposited with him the amount payable under the order appealed against.*" Since the appellant has failed to make deposit and to show the certificate with the memo of the appeal, the appeal cannot be said to be maintainable in the present form. There is stamp reporter's report, showing objection in this regard, since 18.12.1999 on memorandum of appeal when it was presented before the Allahabad High Court.

In the circumstances, this appeal is dismissed, as not maintainable in view of third proviso of Section 30 of Workmen Compensation act, 1923.

Consign to record room.

Dt.24.08.2006 (P.C. Pant, J.)
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